

Rickner PLLC

Rob Rickner | rob@ricknerpllc.com

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Via ECF

The Honorable Gabriel W. Gorenstein
United States Magistrate Judge
Southern District of New York

*Re: In re: New York City Policing During Summer 2020 Demonstrations,
No. 20-CV-8924
This Filing relates to All Cases*

Dear Judge Gorenstein:

We represent the Plaintiffs in *Sierra* and write on behalf of all Plaintiffs to say more about the audit trail logs that this Court Ordered be produced on February 2, 2022. While Plaintiffs stand on the arguments made in the unopposed motion (*see* ECF Nos. 379; 384), after Plaintiffs filed a motion asked for sanctions, as well as production of all the logs, Defendants immediately figured out how to produce the sample audit trail logs—so this letter is intended to address that development, as well as provide what the sample audit trail logs were meant to crystalize: the importance of this “discovery request on the merits.” ECF No. 384.

At a meet-and-confer on February 3, 2022, Defendants claimed that they could not produce the audit trail logs for the body worn camera (“BWC”) videos because they could not figure out which officers took the footage in each of the example videos Plaintiffs provided. On February 4th, right after we filed the letter seeking sanctions and to compel production of all the audit trail logs, Defendants produced the example logs. It is unclear why Defendants went from being unable to produce these logs to being able to readily provide them the next morning.

That said, Plaintiffs reiterate their request that Defendants be compelled to produce the audit logs for all the BWC videos they have produced. These logs have a wealth of relevant information and will make it much easier for Plaintiffs to navigate and understand the BWC videos and connect those videos to other information produced. The audit trail logs are the digital equivalent of the chain of custody forms that have long been used to track and authenticate physical evidence. But rather than simply showing who collected the evidence and when the evidence was handled, these digital records connect the BWC videos to criminal cases, disciplinary proceedings, other witnesses, and even other relevant BWC videos that may have not yet been produced.

For example, in the audit trail log attached as Exhibit A, it is clear from the log who was wearing the BWC, the serial number for the BWC (which also appears in the BWC video itself), the time when the recording started and ended, and when it was uploaded to the evidence.com website (which prevents tampering). *Id.* at 1. But the log is also tagged with two separate CCRB file numbers, which shows that this BWC video was relevant to at least two disciplinary

investigations. *Id.* at 3. Plaintiffs have many (but not all) of these CCRB files, so the audit trail logs will allow us to link this video with those investigations.

Similarly, in the audit trail log attached as Exhibit B, the BWC video is linked to summons number 4442399212, and lists the name of the arresting officer. *Id.* at 8. This allows Plaintiffs to link this BWC video to three witnesses (the officer who took the BWC video, the arresting officer, and the arrestee) and it allows Plaintiffs to link this BWC video to a specific prosecution, which gives us the arrest location, alleged charges, and other information. Connecting all these dots without the audit trail logs would be difficult, if not impossible.

The audit trail logs also show when the BWC footage was modified. According to the Exhibit B log, there was a clip extracted from the full video. *Id.* at 2. Based on our initial examination, it appears the full video, not the clip, was produced. But that does not make the log irrelevant. Editing video to remove footage is a serious issue, and the audit trail logs allow Plaintiffs to be sure they have the full videos.

In addition, both the Exhibit A and B audit trail logs show the internal tags used to mark BWC videos as relevant. Both logs have the tags “Demonstration Civil Disobedience” and “Protest”. Ex. A at 1; Ex. B at 1.¹ Exhibit B is also tagged with the names of some of the *Sierra* Plaintiffs. Ex. B. at 16. Plaintiffs have serious concerns as to whether all the relevant BWC video has been produced. And Defendants have pointedly refused to represent that their BWC video is complete for all protests at issue. One of the ways to check is to ask Defendants to identify all the BWC videos with the relevant tags, so Plaintiffs can compare the “hits” from this search to the production, and look for gaps.

In sum, these audit trail logs are indisputably relevant, and given that they can be produced with the click of a button, there is little burden. Defendants should be Ordered to produce them immediately.

We thank the Court for considering this matter.

Respectfully,

/s/

Rob Rickner

¹ Defendants have previously asserted that videos are not tagged—though they have retreated to an assertion that not *all* videos are tagged properly. In any event, Plaintiffs want to make sure that all the videos that were tagged as related to the protests are produced by Defendants.